



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FACSIMILE NO.: (404) 881-0470

Robert S. Highsmith, Esq.
Holland & Knight
1201 W. Peachtree Street
Suite 2000
Atlanta, GA 30309

SEP 19 2013

RE: MUR 6576
RGC Consulting, LLC

Dear Mr. Highsmith:

On January 7, 2013, the Federal Election Commission notified your client, RGC Consulting, LLC, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on September 10, 2013, voted to find no reason to believe that your client violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a) and closed the file.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed for your information. One or more Commissioners may issue a Statement of Reasons explaining their consideration of the issues in this matter.

If you have any questions, please contact Kimberly Hart, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR 6576

RESPONDENT: RGC Consulting, LLC

I. INTRODUCTION

This matter was generated by a complaint filed by Scott W. Paradise. *See* 2 U.S.C. § 437(g)(a)(1). Wright McLeod was a Republican candidate for Georgia's 12th congressional district in 2012. His principal campaign committee is Wright McLeod for Congress ("McLeod Committee") and Cameron Nixon is its treasurer. The Complaint alleges, in part, that the McLeod Committee violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations by using proprietary donor information obtained from Commission disclosure reports filed by Rick W. Allen for Congress to solicit funds in violation of 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a). All respondents deny the allegation.

As detailed below, the Commission found no reason to believe that the McLeod Committee or its vendor, RGC Consulting, LLC, violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a) by soliciting donors with information from Commission reports.

II. FACTUAL AND LEGAL ANALYSIS

A. Alleged Misappropriation of Information From Reports to the Commission

The Complaint alleges that the McLeod Committee obtained contributor information from disclosure reports filed with the Commission by Rick W. Allen for Congress ("Allen Committee"), the principal campaign committee of one of McLeod's primary election

1 opponents. Compl. at 1-2. The McLeod Committee allegedly used that information to solicit
2 contributors in violation of 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a). *Id.*

3 In support of its claim, the Complaint states that two Allen Committee donors — Molly
4 A. Hargather and Wyche Thomas Green — received fundraising mail from the McLeod
5 Committee in March 2012. Compl. at 1-2, Ex. B. These two donors allegedly had no prior
6 contact with the McLeod Committee. *Id.* at 1. And, according to the Complaint, the solicitations
7 used particular variations of Hargather's and Green's names and addresses that are (1) identical
8 to those used in the Allen Committee's reports to the Commission, and (2) different from
9 variations of the donors' names that appear in other public records. *Id.* at 1, Exs. A, B. As a
10 result, the Complaint contends that the McLeod Committee must have obtained Hargather's and
11 Green's names and addresses from the Allen Committee's disclosure reports. *Id.* at 1-2.

12 In response, the McLeod Committee states that it outsourced its direct mail solicitations
13 to a third-party vendor and that it played no role in the development of its vendor's mailing lists.
14 Committee Resp. at 5-6. The Committee also maintains that it has no information to suggest that
15 its vendor obtained contributor contact information in violation of the Act or Commission
16 regulations. *Id.*¹

17 OGC provided the McLeod Committee an opportunity to clarify its Response on
18 December 5, 2012. *See* Letter from Daniel Petalas, Assoc. Gen. Counsel, FEC, to Stephen
19 Passantino, Counsel for McLeod Committee (Dec. 5, 2012). The McLeod Committee identified
20 RGC Consulting, LLC ("RGC") as its third-party vendor. *See* Affidavit of Mike Allen on Behalf
21 of Wright McLeod for Congress, Inc. at ¶ 3 (Dec. 14, 2012). OGC then notified RGC that it was

¹ The McLeod Committee also argues that the variations of Hargather's and Green's names used in the solicitations are readily available through a wide range of public records. Committee Resp. at 6-7.

1 a potential respondent and provided it an opportunity to respond to the Complaint. *See* Letter
2 from Jeff S. Jordan, Supervisory Attorney, FEC, to Rebecca Grant Cummiskey, RGC
3 Consulting, LLC (Jan. 7, 2013). In its response, RGC denies that it obtained any contributor
4 information from Commission filings. RGC Consulting, LLC Response at 2 (Mar. 18, 2013)
5 (“RGC Resp.”). Instead, RGC explains that its owner, Rebecca Cummiskey, provided mailing
6 lists for McLeod Committee that were derived exclusively from her personal database of 30,000
7 contacts. *Id.* at 1. RGC states that over the last 12 years, Cummiskey has worked on numerous
8 campaigns and as a political fundraiser. As a result, Cummiskey explains that she developed her
9 database “largely from direct donations to [the] campaigns on which she has worked” and
10 through “rolodexes, chamber of commerce directories, association membership directories” and
11 other sources. *Id.*

12 The Commission found that there is no reason to believe that either the McLeod
13 Committee or RGC violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. §104.15(a). The Complaint is
14 incorrect that the version of Green’s name used in the McLeod Committee’s solicitation (*see*
15 Compl., Ex. B) is identical to that found in the Allen Committee reports. Although the
16 Complaint attaches a chart purporting to show the iteration of Green’s name used in an Allen
17 Committee report (*see* Compl., Ex. A.), the actual Allen Committee reports use a different
18 version of Green’s name. In three instances, the Allen Committee has reported Green’s name as:
19 “Mr. Wyche Thomas Green III.” *See* Rick W. Allen for Congress, FEC Form 3, 2012 July
20 Quarterly Report at 28-29 (Jul. 15, 2012); Rick W. Allen for Congress, FEC Form 3, 2011 Year-
21 End Report at 32 (Jan. 31, 2012). In contrast, the version of Green’s name in the McLeod
22 solicitations contains a comma after Green’s last name: “Mr. Wyche Thomas Green, III.”
23 (Compl, Ex. B.)

1 The version of Hargather's name and address appearing in the McLeod Committee
2 solicitation (Compl., Ex. B) is identical to that appearing in the relevant Allen Committee report,
3 *see* Rick W. Allen for Congress, FEC Form 3, 2011 Year-End Report at 34 (Jan. 31, 2012). This
4 isolated instance, however, is insufficient to support a reason to believe finding, even crediting
5 the Complaint's assertions that this iteration of Hargather's name appears nowhere else in the
6 public record, and that Hargather has never contributed to a political candidate other than Allen.
7 *See* Compl. at 1.

8 Accordingly, the Commission found that there is no reason to believe that the McLeod
9 Committee or RGC violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a).